

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY JE D.C.

05 JUN 20 PM 3:14

ROBERT R. DI TROLIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

United States Of America,

Plaintiff,

v.

National Bank of Commerce,

Defendant / Third-Party Plaintiff,

v.

Specialty Foods, LLC, and Paul T. Capps,

Third-Party Defendants.

CIVIL ACTION NO. 2:05-cv-02382-B/A
(Transferred from Middle District of North
Carolina 1:04CV00518)

RULE 16(b) SCHEDULING ORDER

Pursuant to the scheduling conference set by written notice, the following dates are established as the final dates for:

INITIAL DISCLOSURES (RULE 26(a)(1)):

No later than July 5, 2005.

JOINING PARTIES:

For Plaintiff:

For Defendant and Third-Party Defendant:

August 22, 2005
September 21, 2005

AMENDING PLEADINGS:

For Plaintiff:

For Defendant and Third-Party Defendant:

August 22, 2005
September 21, 2005

COMPLETING ALL DISCOVERY:

February 21, 2006

- (a) **REQUESTS FOR PRODUCTION, INTERROGATORIES, and REQUESTS FOR ADMISSIONS:** February 21, 2006
- (b) **EXPERT DISCLOSURE (Rule 26(a)(2):**
 - (i) Plaintiff's Experts: December 21, 2005
 - (ii) Defendant and Third-Party Defendant's Experts: January 23, 2006
 - (iii) Supplementation under Rule 26(e): February 2, 2006
- (c) **DEPOSITIONS OF EXPERTS:** February 21, 2006

FILING DISPOSITIVE MOTIONS: March 21, 2006

FINAL LISTS OF WITNESSES AND EXHIBITS (Rule 26(a)(3)):

- (a) For Plaintiff: 45 days before trial
- (b) For Defendant and Third-Party Defendant: 30 days before trial

Parties shall have 10 days after service of final lists of witnesses and exhibits to file objections under Rule 26(a)(3).

The trial of this matter is expected to last 3 days. The presiding judge will set this matter for **NON-JURY TRIAL**. In the event the parties are unable to agree on a joint pretrial order, the parties must notify the court at least ten days before trial.

OTHER RELEVANT MATTERS:

Interrogatories, Requests for Production and Requests for Admissions must be submitted to the opposing party in sufficient time for the opposing party to respond by the deadline for completion of discovery. For example, if the FRCP allow 30 days for a party to respond, then the discovery must be submitted at least 30 days prior to the deadline for completion of discovery.

Motions to compel discovery are to be filed and served by the discovery deadline or within 30 days of the default or service of the response, answer, or objection which is subject of the motion if the default occurs within 30 days of the discovery deadline, unless the time for filing of such motion is extended for good cause shown, or any objection to the default, response, or answer shall be waived.

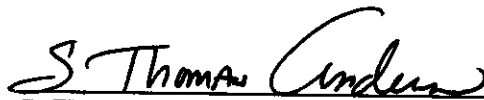
The parties are reminded that pursuant to Local Rule 7(a)(1)(A) and (a)(1)(B), all motions, except motions pursuant to FRCP 12, 56, 59, and 60, shall be accompanied by a proposed Order and a Certificate of Consultation.

The opposing party may file a response to any motion filed in this matter. Neither party may file an additional reply, however, without leave of the court. If a party believes that a reply is necessary, it shall file a motion for leave to file a reply accompanied by a memorandum setting forth the reasons for which a reply is required.

The parties may consent to trial before the Magistrate Judge. The Magistrate Judge can normally provide the parties with a definite trial date that will not be continued, unless a continuance is agreed to by all parties or an emergency arises which precludes the matter from proceeding to trial.

This order has been entered after consultation with trial counsel pursuant to notice. Absent good cause shown, the scheduling dates set by this Order will not be modified or extended.

IT IS SO ORDERED.


S. THOMAS ANDERSON
UNITED STATES MAGISTRATE JUDGE

Date: June 16, 2005



Notice of Distribution

This notice confirms a copy of the document docketed as number 17 in case 2:05-CV-02382 was distributed by fax, mail, or direct printing on June 21, 2005 to the parties listed.

Dara B. Oliphant
U.S. Department of Justice Tax Division
P.O. Box 227
Ben Franklin Station
Washington, DC 20044

Robert A. Meynardie
Nelson, Mullins, Riley & Scarborough, LLP
P.O. Box 30519
Raleigh, NC 27622--051

Kenneth A. Janik
Nelson, Mullins, Riley & Scarborough, LLP
Meridian, 17th FL.
1320 Main Street
Columbia, SC 29201

M. Ronald McMahan
Nelson, Mullins, Riley & Scarborough, LLP
Meridian, 17th FL.
1320 Main St.
Columbia, SC 29201

Steven A. McKelvey
Nelson, Mullins, Rogers & Scarborough, LLP
P.O. Box 11070
Columbia, SC 29211--001

Honorable J. Breen
US DISTRICT COURT